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Committee on Natural Resources,
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FEDERAL LANDS

**Fees for Communications
Sites Are Below Fair Market
Value**

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Messrs. Chairmen and Members of the Subcommittees:

We are pleased to be here to discuss our report to you, which you are releasing today, on the fees that the government receives for the use of federal lands for communications sites.¹ These sites are used to broadcast and transmit television, radio, and other electronic signals. For the most part, the sites are leased to commercial users who construct antenna towers and buildings housing electronics equipment on the sites.

In summary, we found that the fees being charged for the communications sites on federal lands are in most instances significantly below fair market value,² and that state and private landowners who lease similar sites often receive higher fees based on the fair market value of their lands. Forest Service and Bureau of Land Management (BLM)³ officials estimate that charging fees that reflect fair market value would increase federal revenues from about \$4 million a year to about \$23 million a year. In addition, the current low federal fees may depress the market value of state communication sites and reduce the funds that states and counties

¹Federal Lands: Fees for Communications Sites Are Below Fair Market Value (GAO/RCED-94-248, July 12, 1994).

²Fair market value refers to the price at which a willing seller would choose to sell and a willing buyer would choose to buy in a competitive marketplace.

³The Forest Service in the U.S. Department of Agriculture and the BLM in the Department of the Interior are the two primary agencies whose lands are used as communications sites. The Forest Service issues permits and the BLM uses rights-of-way leases to grant authority for the use of their lands.

receive from sharing in the revenues generated by the national forests.

The issue of fees for the communications sites differs in one key aspect from other GAO work in recent years dealing with receiving fair market value or a fair return for the sale or use of federal lands and natural resources. Both agency and communications industry representatives agree that the current fees for federal sites are too low and should be increased, but cannot reach agreement over how much the fees should be increased. While the administration has attempted to raise the fees to better reflect fair market value, restrictions included in appropriations-related legislation enacted over the past 5 years have limited the amount of the increases.

BACKGROUND

Neither the Forest Service nor BLM has reliable or complete information on the total number and types of users of the communications sites or on the total fees collected. However, Forest Service officials estimate that they have about 6,300 communications permits and collect about \$1.9 million in annual fees. BLM officials estimate that they have about 3,200 leases and collect between \$1.5 million to \$2 million in annual fees.

Lands on mountain peaks or other high elevations near population centers are the most desirable places to locate communications sites, and many of the best communications sites in the West are on Forest Service lands, thereby increasing their value. As a result, the Forest Service has taken the lead in addressing the issue of what fees should be charged for communications sites, and our review focused primarily on this agency.

CURRENT FEES FOR COMMUNICATIONS SITES
DO NOT REFLECT FAIR MARKET VALUE

Under the Federal Land Policy and Management Act of 1976, the federal government is to receive fair market value for the use of its public lands. However, the fees that both the Forest Service and BLM charge for the use of their communications sites are generally significantly below fair market value.

The Forest Service's fees are based on an outdated formula that has no relationship to fair market value. For example, according to the Forest Service, the appraised market value for a television broadcaster at Mt. Wilson--which is near Los Angeles, California--is \$75,000 annually, while the fees now being paid to the Forest Service range from \$1,294 to \$9,600 annually--or from about 2 percent to about 15 percent of the appraised value. Forest Service officials estimate that, on a national basis, if the agency's fees for the communications sites reflected fair market

value, revenues would increase more than 10-fold--from about \$1.9 million a year to about \$20 million a year. In addition, Forest Service officials told us that because the fees are now so low, it frequently costs more to issue a permit than the permit would generate in current fees. This has resulted in a large number of unauthorized users on Forest Service lands.

The policy at BLM is to base the fees for its communications sites on site appraisals and to reappraise each site every 5 years and adjust its fees accordingly. However, because the program has a low priority relative to the agency's other programs and activities, many sites have not been reappraised every 5 years and, as a result, the appraisals are out of date. BLM officials estimate that if they charged fees that reflected fair market value, revenues would increase from about \$1.5-\$2 million to about \$3 million a year.

FEDERAL FEES ARE LESS THAN THOSE CHARGED
BY NONFEDERAL LANDOWNERS

Like the federal government, states and private landowners lease lands for communications sites, but their fees are generally based on fair market value and are often higher than those charged by the federal government.

Over two-thirds of all Forest Service communications sites are located in seven western states--Arizona, California, Colorado,

Idaho, New Mexico, Oregon, and Washington. Six of the seven states base their fees on the fair market value of their communications sites. The one state that does not--Oregon--has a policy limiting fees to the amount needed to recover administrative costs.

An example illustrates how the fees charged by states and private landowners compare with the federal fees: The state of Washington receives \$6,227 a year from an FM radio tower owner for a state-owned site in the Tri-Cities area of Richland-Pasco-Kennewick (with a population of about 120,000) in eastern Washington, while a private landowner receives over \$27,000 a year from a FM radio station to broadcast from a site that serves the Seattle, Washington, metropolitan area. Although there are no comparable federal sites serving these areas, owners of FM radio towers on Forest Service lands that serve much larger populations pay much lower fees. In Los Angeles, California, the second largest broadcast market in the country, owners of FM radio towers pay annual fees to the Forest Service ranging from \$431 to \$679.

The current federal fees result not only in forgone revenues to the U.S. Treasury but also can have the unintended consequence of causing reduced revenues to states and counties. Officials in three of the six states that base their fees on fair market value told us that the low fees charged by the Forest Service and BLM depress the market value of their communications sites. The lower federal fees also reduce the funds that states and counties receive

from sharing in the revenues generated by the national forests. These revenues are often used to support specific local activities, such as schools and roads.

EFFORTS TO OBTAIN FAIR
MARKET VALUE HAVE BEEN IMPEDED

For several years the Forest Service has attempted to increase the fees for its communications sites to reflect fair market value. While industry representatives agree that the current fees are too low, they believe that the fee increases proposed by the Forest Service are too high. Furthermore, for the past 5 years, appropriations-related legislation has limited the amount by which the Forest Service and BLM can increase the fees.

In an effort to determine what the fees for federal communications sites should be, the conference report for fiscal year 1992 appropriations directed the Forest Service and BLM to create an advisory committee to report on methods for establishing site fees that reflect the fair market value of two communications uses--television and FM radio. This committee, called the Radio and Television Broadcast Use Fee Advisory Committee, was made up of 11 voting members, including 6 representatives of the communications industry.

Rather than using the commonly accepted techniques for determining fair market value, such as appraisals performed by

independent appraisers and market surveys, the Advisory Committee used information provided by industry groups and appraisers, and relied on the collective judgment of its members to arrive at estimated "market-value" fees. The committee then reduced these fees by 30 percent to account for such factors as the public service provided by the industry to the communities it serves. The fees proposed in the committee's December 1992 report,⁴ which are supported by the industry, are generally substantially higher than those currently charged by the Forest Service and BLM. (See app. I.)

While the Forest Service and BLM agreed with some of the findings of the Advisory Committee's report, they disagreed with both the methodology used by the committee and the proposed fees because--as the committee acknowledged--the fees do not reflect fair market value. Consequently, the Forest Service developed its own fee proposal, which it published for public comment in the Federal Register in July 1993.

In contrast to the Advisory Committee, the Forest Service used a systematic method to estimate fair market value, involving the commonly accepted techniques of formal appraisals done by an independent appraiser and market surveys. The Forest Service then grouped the fees into several broad categories of communities on

⁴Report of the Radio and Television Broadcast Use Fee Advisory Committee, Dec. 1992.

the basis of population. The proposed fees assigned to each category were based on what the Forest Service believed was the fair market value of the sites in the smallest community in each category. As a result, the larger communities within each category pay less than the fair market values for their communications sites. (See app. I.)

Forest Service officials told us they took this approach because such a fee schedule is easier to administer than determining the fair market value for each site. The Advisory Committee's report also supports a fee schedule because, among other things, it is cost-efficient, is predictable, and can be consistently applied throughout the agency.

However, as appendix I shows, the fees proposed by the Forest Service are generally higher than those proposed by the Advisory Committee. Industry representatives with whom we spoke expressed several concerns about the Forest Service's proposed fees. They are concerned about the impact the proposed fees might have on small broadcasters serving rural areas throughout the western United States. However, none of the eight small broadcasters in Idaho and Arizona we contacted said that they would cease operations as a result of having their fees increased to the amounts proposed by the Forest Service.

Industry representatives are also concerned that the communications sites used by the Forest Service in developing its proposed fees are not comparable to the sites on Forest Service lands. They could not, however, provide us with specific examples to support their concern. Furthermore, Forest Service officials said the agency had used only comparable sites to develop the proposed fees.

A third concern of industry representatives is that in estimating fair market value, the Forest Service based its analysis on the "highest and best use" of the lands. They believe that in doing so, the agency was too narrow in its view of fair market value and should also have considered the value of the "next best use" of the lands--such as livestock grazing or ski area operations. However, in its December 1992 report, the Advisory Committee concluded that basing fees on the "next best use" of a site would not be consistent with legal requirements, since by definition such fees would not be based on the fair market value of the lands. Forest Service officials also believe this approach would not be appropriate.

Finally, television and FM radio representatives believe that the broadcasters should receive a discount for the public service they provide. While the law allows a fee discount or waiver for public service, the Department of Agriculture's General Counsel has taken the position that reducing fees for broadcasters is not

appropriate unless there is some direct and tangible benefit to federal lands. BLM's Chief Appraiser has taken a similar view.

In each of the past 5 years, language has been inserted into appropriations-related legislation limiting the annual fee increases for Forest Service and BLM communications sites. Unless additional legislation is enacted, the current fee limits will expire at the end of fiscal year 1994. If these limits continue, the federal government will not obtain fair market value for many years, if ever.

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In summary, Messrs. Chairmen, the current fees charged for federal communications sites are significantly below fair market value. Charging fees that reflect fair market value would increase federal revenue by over 500 percent. State and private landowners generally receive fair market value fees. Our report suggests that if fair market value is to be obtained, the Congress should consider not renewing limits on communications site fee increases. Our report also recommends that the Secretaries of Agriculture and the Interior continue to develop a fee system based on fair market value and implement it unless legislatively prohibited. We further recommend that they improve management oversight of their communications sites.

This concludes our statement. We will be glad to answer any questions that you or other members of the Subcommittees may have.

COMPARISON OF FOREST SERVICE'S AND ADVISORY COMMITTEE'S FEES

The following table compares the fees for three Forest Service communications sites. These sites--Mt. Wilson, Sandia Crest, and Deer Point--represent sites located near a large metropolitan area, a medium-sized city, and a relatively small city, respectively. Mt. Wilson is the predominant communications site in the Los Angeles, California, area--the second largest broadcast market in the country. Seven television stations, 12 FM radio stations, and numerous commercial mobile radio operators transmit from this site. Sandia Crest is the predominant communications site for the Albuquerque, New Mexico, area. Nine television stations, 12 FM radio stations, and 27 commercial mobile radio operators transmit from this site. Deer Point serves the area around Boise, Idaho, and is the predominant site for broadcasting in this area. Three television stations, six FM radio stations, and one commercial mobile radio operator transmit from this site.

Table 1: Comparison of Forest Service's and Advisory Committee's Annual Fees

Site and use	Forest Service's current range of fees	Forest Service's appraised market-value fees	Advisory Committee's estimated market-value fees	Forest Service's proposed fees	Advisory Committee's proposed fees
Mt. Wilson					
Television	\$1,294 - 9,600	\$75,000	\$60,000	\$45,000	\$42,000
FM radio	\$431 - 679	\$70,000	\$42,000	\$34,000	\$29,400
Commercial mobile radio	\$431 - 1,114	\$60,000	^a	\$12,000 ^b	\$12,000 ^c
Sandia Crest					
Television	\$115 - 2,353	\$21,000	\$15,000	\$19,000	\$10,500
FM radio	\$148 - 6,929	\$19,500	\$10,500	\$14,000	\$7,350
Commercial mobile radio	\$119 - 1,411	\$16,000	^a	\$7,500	\$3,500 ^c
Deer Point					
Television	\$671 - 712	\$13,000	\$3,250	\$6,000	\$2,625
FM radio	\$4,513	\$12,500	\$2,625	\$5,500	\$1,838
Commercial mobile radio	^d	\$10,000	^a	\$5,000	\$2,000 ^c

Note: The fees in this table apply only to facility owners.

^aCommercial mobile radio was not addressed by the Advisory Committee.

^bThis fee is the higher of \$12,000 or 25 percent of the revenues generated by the permittee.

^cThese fees are taken from a fee system developed by the commercial mobile radio industry.

^dThe one commercial mobile radio operator at Deer Point is a subtenant.